



**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
CITY OF CHULA VISTA  
AND  
WESTERN COUNCIL OF ENGINEERS**

**FY 2001/02, FY2002/03, FY2003/04, & FY2004-05**

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MEMORANDUM OF UNDERSTANDING CONCERNING WAGES AND OTHER TERMS  
AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES REPRESENTED BY THE  
CHULA VISTA CHAPTER, WESTERN COUNCIL OF ENGINEERS FOR FISCAL YEARS  
2001/2002, 2002/2003, 2003/2004 AND 2004/2005.

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## **1.01 PREAMBLE**

This MOU is entered into by the City of Chula Vista, hereinafter referred to as the "City" and the Chula Vista Chapter of the Western Council of Engineers.

## **1.02 RECOGNITION**

The City recognizes the Chula Vista Chapter of the Western Council of Engineers, hereinafter referred to as "WCE" as exclusive representative for the employees in the City of Chula Vista that are employed in the following classifications:

Assistant Engineer I  
Assistant Engineer II  
Civil Engineer  
Transportation Engineer  
Land Surveyor  
Assistant Surveyor I  
Assistant Surveyor II

The City will support and comply with WCE's decision regarding Agency Shop and will abide by the result of a majority vote of the employees in the above classifications. Should WCE succeed in such an election, the City and WCE will meet and confer on a side letter implementing the terms of the agency shop agreement.

## **1.03 CITY RIGHTS**

- A. WCE recognizes that the City has and will continue to retain in all respects, whether exercised or not, the unilateral and exclusive right, subject to this Agreement, to operate, administer, and manage its public services and its work force performing those services.
- B. The exclusive rights of the City shall include, but not be limited to:
- Determining the organization of City government and the purpose and mission of its constituent agencies.
  - Setting standards of service to be offered to the public and, through its management officials, to exercise control and discretion over its organization and operations.
  - Establishing and effecting administrative regulations and employment rules consistent with the law and the specific provisions of this Agreement.
  - Directing its employees.

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- Determining the City budget.
  - Taking disciplinary action.
  - Relieving employees from duty because of a lack of work or for other legitimate reasons.
  - Determining the methods, means, and personnel by which the City's services are to be provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the City.
  - Subcontracting out various services whether currently performed by City workforce or not, when no elimination of current employees will result and management determines it is in the public interest.
- C. The exercise and retention of the City rights contained herein does not preclude the employees and/or WCE from consulting about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.
- D. Nothing contained in this provision shall be deemed to supersede the provisions of existing State law and the ordinances and rules of the City which establish the Civil Service System.
- E. Fitness for Duty**

The parties agree that physical and mental fitness of City employees are reasonable requirements to perform the duties of the job and instill public confidence. Recognizing these important factors, the parties agree that during the term of this Agreement, the City with reasonable cause, may require medical and psychological assessments of employees provided the City pays and provides time off without loss of pay for such assessments. All such assessments shall be done by appropriately qualified health care professionals. It is understood that the assessment regimen performed by said professionals shall be reasonably related to with the requirements and duties of the job.

Any treatment or remedial action shall be the full responsibility of the employee, except as otherwise provided by law or as may be provided through the Employee Assistance Program (EAP) for City employees and the Substance Abuse Policy.

#### **1.04 WCE RIGHTS**

WCE shall have the right to:

- Be provided a reasonable amount of space on relevant City bulletin boards for legitimate communications with members.

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- Be granted use of City facilities by the appropriate authority for meetings composed of WCE members, provided such meetings are held outside regularly scheduled working hours for the group which is meeting, and provided space can be made available without interfering with City needs. WCE will provide proper advance notice of such meetings and pay any contingent costs of security, supervision, damage and clean-up.
  - Have WCE provided without charge 45 bound copies of the FY2001/02, FY2002/03, FY2003/04, & FY2004/05 Memorandum of Understanding no later than thirty (30) calendar days after date of City Council ratification. In addition, City shall provide without charge to WCE the FY2001/02 thru FY2004/05 Memorandum of Understanding in the City's standard word processing format on a single 3-1/2" floppy computer disk.
  - Be allowed reasonable access to employees of the unit at their work locations during working hours for the purpose of consulting with employees in the unit regarding the employer-employee relationship, provided that (1) the work of the employee and the service of the public are not unduly impaired, and (2) the authorized representative shall have given advance notice to the department head or their designated representative when contacting departmental employees during the duty period of the employees. The department head shall determine the appropriate time for such access.
  - Designate two (2) employees plus alternates who serve as official representatives. Such persons shall be released from work, without loss of compensation, when formally meeting and conferring with management representatives on matters within the scope of representation. One member shall also be released from work without loss of compensation when meeting with management representatives on matters pertaining to an allowable grievance item.
  - Be provided, upon request, such literature and public documents as may be necessary (i.e., City budget, Workers Compensation benefits).
  - The City of Chula Vista shall bill WCE \$.18 per member per pay period for the full costs incurred for dues deduction on behalf of WCE.
  - If the City proposes layoffs of positions represented by WCE or freezing or deletion of vacant positions represented by WCE after 7/1/2001, the City will have Engineering management discuss these with a two-person WCE team to discuss possible alternatives. WCE will act only in an advisory capacity to the City and acknowledges and recognizes the City's full rights under Section 1.03 of this Agreement.

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## **1.05 DISCRIMINATION PROHIBITED**

### **A. General Discrimination**

Neither the City nor Western Council of Engineers (WCE) shall discriminate in any way on account of race, creed, religion, sex, national origin, marital status, sexual orientation, age or disability as provided by law. Western Council of Engineers and those it represents, shall fully cooperate with the City in complying with this requirement of nondiscrimination.

### **B. American with Disabilities Act**

The City and WCE recognize that significant legal obligation have been imposed on employers by the Americans with Disabilities Act (ADA). WCE recognizes and agrees that the City may take actions necessary to comply with the ADA requirements which may require decisions that are contrary to the current MOU, Civil Service rules or past practices. However, prior to making any changes, the City shall provide notice to WCE of such requirements, and upon request, will meet to discuss the proposed changes.

## **2.01 WAGES**

- A. All WCE employees will receive a 3% salary increase effective the pay period including January 1, 2002.

If 3% at 60 is approved by the legislature and available as a PERS contract option on or before January 1, 2003 this option will be provided to WCE members and the City shall pay eight percent (8%) of the employee's contribution to PERS for classifications represented by WCE. If 3% at 60 is contracted for as of January 1, 2003 the following salary increases will be in effect for the remainder of the contract:

All WCE employees will receive a 2% salary increase effective the pay period including January 1, 2003.

All WCE employees will receive a 3% salary increase effective the pay period including January 1, 2004.

All WCE employees will receive a 4% salary increase effective the pay period including January 1, 2005.

If 3% at 60 is NOT an available contract option as of January 1, 2003 the following salary increases will be in effect for the remainder of the contract:

All WCE employees will receive a 4% salary increase effective the pay period including January 1, 2003.

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All WCE employees will receive a 4% salary increase effective the pay period including January 1, 2004.

All WCE employees will receive a 5% salary increase effective the pay period including January 1, 2005.

- B. The City shall pay seven percent (7%) of the employee's contribution to PERS for classifications represented by WCE. If 3% at 60 is available as a PERS contract option on or before January 1, 2003 as of January 2003 the City shall pay eight percent of the employee's contribution for classifications represented by WCE.
- C. All other payroll and wage changes, such as merit increases, shall be made effective at the beginning of the regular pay period closest to the date of change.
- D. Distribution of paychecks shall be done only on regular paydays except in an emergency, when employees may receive their check on a day other than a regular payday if a memo is directed from the Department Head to the Finance Officer justifying the request.
- E. Employees, who do not have direct deposit, are eligible for pay in advance for a maximum of two weeks of earned vacation pay. Vacation pay in advance will be made on a regular payday if the employee notifies the Finance Department at least three working days prior to the payday on which payment is desired.
- F. All Assistant Engineers II and Assistant Surveyor II who become registered by the State of California as a Professional Civil Engineer, Professional Traffic Engineer or Land Surveyor, and such registration is not a requirement of the position held, shall receive five percent (5%) additional compensation.

#### **2.01.1 Job Sharing**

The City will make reasonable accommodation for an employee in a regular position who desires to share his/her job with another qualified employee or eligible person. Jobs may be shared on an hourly or daily basis. All legally permissible benefits will be pro-rated. Each employee shall be notified in writing by the appointing authority (Director of Public Works) at the time of the appointment and such notification will clearly define the benefits to which each employee is entitled.

#### **2.01.2 Salary Survey**

The City and WCE shall conduct a salary survey using the benchmark position of Civil Engineer. This survey will be concluded no later than October 31, 2001. The survey will be conducted by a committee composed of one representative each from the Human Resources Department and Administration and two representatives from WCE. The representatives will determine the survey methodology including: selection of agencies



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to be included in the survey, comparability of the job duties and authority of City employees with those employees surveyed from other agencies, and the date used for comparison purposes. The results of the survey will be implemented no later than the first pay period which includes December 1, 2001 in accordance with the City's compensation policy. Salaries in positions other than Civil Engineer will be adjusted at the same time according to existing salary differentials among classifications.

## **2.02 PROFESSIONAL LICENSE FEES, REGISTRATION EXAMINATION LEAVE AND MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS**

### **2.02.1 PROFESSIONAL LICENSE OR REGISTRATION EXAMINATION LEAVE**

Represented employees who have made application for and are scheduled to participate in a licensure examination for Professional Engineer, Professional Traffic Engineer, or Land Surveyor shall, upon verification by the appointing authority, be granted time with pay to participate in any such part of the examination which is scheduled during City work hours. Such time off shall be granted one time only and shall not be charged to any leave time.

### **2.02.2 Fees for Professional Licenses**

The City shall pay the fees for professional registration/licenses of Professional Engineer, Civil Engineer, Structural Engineer, Traffic Engineer, Traffic Operation Engineer, and Land Surveyor.

### **2.02.3 Membership in Professional Associations**

The City will also purchase membership in the following professional organizations: ASCE, APWA, CLSA, ITE, and the Structural Engineers Association.

## **2.03 EXTRAORDINARY SERVICE**

- A. Extraordinary Service Pay is defined as pay for exceptional performance by an individual at his/her classification level as determined by the department head.
- B. Eligibility shall be determined by one or more of the following criteria:
  - 1. The employee has performed outstanding work on a continuing basis at his/her current job classification level such as, but not limited to:
    - a. Frequent completion of work significantly ahead of schedule.

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b. Volume and/or quality of work produced greatly exceeds department norms on a continuing basis.

2. The employee has completed, or is currently working on an assignment which calls for a substantial degree of greater responsibility and/or professional or technical expertise than his/her current job classification requires and is not covered by Temporary Work in a Higher Classification Pay provisions contained herein.
3. The employee has completed, or is currently planning, developing or implementing a special program initiated or suggested by himself/herself and approved by the department head which will provide substantial overall benefit to the department and/or the City.

C. Implementation

1. The department head shall, during the months of June and December, meet with his/her supervisory staff to determine if any employee should receive Extraordinary Service Pay for exceptional performance during the past six (6) month period. The maximum number of eligible employees during the year shall not exceed three (3) persons.
2. When the department head determines that an employee should receive ESP, it shall be his/her responsibility to determine the amount and to forward his/her recommendation(s) to the City Manager for approval.
3. ESP shall be a lump sum payment of one of the following amounts as determined by the department head and approved by the City Manager: \$250, \$300, \$400, \$500 or \$600. Payment shall be made within thirty (30) days following the City Manager's approval at a staff meeting called for the purpose of presenting the awards. Along with the awards, each recipient will receive a letter of appreciation signed by the City Manager or his/her designated representative which, in part, will give the reasons for that particular award.

D. Annual review by the department head(s) or their designated representative(s) and WCE shall be made in the second quarter of each calendar year. The eligibility and implementation procedures shall be reviewed to determine if any revisions, deletions, or additions should be made to this provision (ESP). Changes to this provision (ESP) shall be subject to the mutual approval of the department head(s) and WCE.

E. The provisions of this Section shall not be subject to the grievance procedure. The provisions of this Section are separate and distinct from the City's Performance Evaluation System.

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## **2.04 DEFERRED COMPENSATION**

Employees represented by WCE shall be eligible to participate in the City's approved Deferred Compensation Plan.

## **2.05 MILEAGE REIMBURSEMENT**

Employees in this unit shall be subject to a mileage reimbursement program when required to use their private automobile for authorized City business. Reimbursement rate will be tied to the IRS rate permitted by law in effect at the time reimbursement is requested.

## **2.06 WORK WEEK**

### **A. Definition**

The work week is a fixed and regular recurring period of work hours during the seven consecutive 24 hour periods beginning at 12:01 a.m. on Friday and ending at 12:00 a.m. the following Friday morning.

### **B. Work Schedules**

1. There are five types of schedules utilized in the Department of Public Works. Each of these schedules fall within the normal two week payroll cycle:
  - a. Regular Work Schedule - A five day, 40 hour week with an eight hour day and a choice of a 30 - 120 minute lunch period.
  - b. Flex-time Schedule - A non-regular work schedule with a consistent pattern as to the number of work hours per day, but an arrangement whereby the employee is obligated to perform work and be responsible for flexing the hours of his/her own work schedule in accordance with written arrangements agreed to by the employees and the appointing authority.
  - c. Flex-week Schedule (4/10) - The Flex-week Schedule (4/10) consists of four 10-hour days during a one week period with a choice of a 30 - 60 minute lunch period.
  - d. Flex-week Schedule - The Flex-week schedule consists of four 9-hour work days and one-half day during a one-week period with a choice of a 30-120 minute lunch period. Employees cannot be regularly scheduled for more than 40 hours in a work week as defined in 2.06 A.

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2. Employees may request in writing a change in work schedule for the employee's own convenience. All schedule changes are subject to supervisor and department head approval, and must be submitted at least two weeks prior to the implementation date.

**C. Policies and Procedures**

1. Individual employee's preference will be considered whenever possible based upon seniority, satisfactory work performance and the needs of the department within each work unit in choosing a particular work schedule. However, the overriding factor to be considered in allowing variable work schedules shall be that all work units are adequately staffed, including supervision, from 8:00 a.m. until 5:00 p.m., Monday through Friday.
2. All new employees who are serving a probationary period and are subject to the Agreement may be required for the first six months of the probationary period to work a five day, 40 hour week, with an hour off for lunch, at the discretion of their supervisor, to facilitate adequate training for the position. At the end of the six month period, if the employee has received a standard or better performance evaluation, he/she may request a change in work schedule.
3. Should the production and efficiency of an individual or work unit on a variable work schedule not meet the department's needs, as determined by the department head, it shall be the division head's prerogative to alter individual work schedules or schedules of a work unit.
4. An employee may be required to alter his/her work schedule, either temporarily or permanently to provide adequate coverage when other personnel are absent, vacancies exists, when holidays create time constraints, or when peak load requirements demand. Except in cases of emergency operations or unforeseen absences, proper notice of a change in work schedule arising from other than a transfer or promotion shall be given the affected employee. Proper notice shall be two weeks notice. Failure to give proper notice to the employee shall entitle the affected employee to compensation for all hours actually worked on the new schedule which are at variance from the employee's previous schedule until proper notice is given.
5. Time off for vacation or sick leave shall be charged in accordance with the employees work schedule for the days in question. Holidays are credited for eight hours. Depending upon the work schedule (i.e., for days in excess of eight hours) an employee shall make up the additional time or take vacation time off for the excess.

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## **2.07 OVERTIME**

1. Definition - Whenever an employee is ordered to work more than 40 hours in a work week they shall be granted overtime pay at the rate of 1 1/2 times their Fair Labor Standards Act (FLSA) "Regular Rate" or compensatory time off at 1 1/2 times the extra hours worked (except as stated in Section 2.06.). Such overtime work shall be only at the direction of and first approved by the employee's immediate supervisor. Payment for overtime shall be made during the pay period wherein the overtime was earned. A record of compensatory overtime earned and utilized shall be maintained on the biweekly pay records. Compensatory overtime shall not be accrued to an employee's credit for any time in excess of 40 hours. Reimbursement for overtime with time off or pay will be at the option of the supervisor and the department head based on the employee's request while recognizing the overall departmental staffing requirements.

"Time Worked" - Includes all paid hours including sick leave, leaves during which Workers' Compensation is paid, vacation time, holidays or any other time away from the job that is paid.

2. Administration of Overtime - All time worked in addition to the work week with the exception of insignificant amounts of "hours worked" will be counted toward the 40 hour work week. Insignificant amounts of hours worked is defined as any time worked outside the regular schedule that is less than 15 minutes in a day, unless definition is changed in Federal Regulations or by court action.

## **2.08 BILINGUAL PAY**

Effective the first full pay period following Council adoption of the MOU, represented employees who are required to continuously utilize their bilingual skills in the performance of their duties, will receive \$100 per month in addition to their regular pay. Bilingual pay will be subject to recommendation of the department head, approval by the Human Resources Director and successful completion of a bilingual performance examination.

## **2.09 EMPLOYEE BENEFITS**

### **A. Flexible Benefit Plan**

1. Description of Program - Represented employees shall each receive \$7990 as of January 1, 2002 to be used solely for approved employee benefits.
  - a. To maintain relative buying power for the employees to purchase health benefits from their flexible benefit plan, the City agrees to increase the annual flex plan allotment by one half of the average cost increase for full family non-indemnity health plan premiums. The City's share of the increased cost will be added to the beginning flex plan balance of the next

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available flex plan year. The City agrees that the annual flexible benefit plan allotment will not be decreased.

2. Administration of Program

- a. From June 15 through June 30 of the fiscal year, requests for reimbursement under the City's "Flexible Benefit Plan" will be approved for "emergency" expenses only. An emergency is defined as an unforeseen occurrence or combination of circumstances which necessitated immediate action. Requests for reimbursements for purchases made by employees after June 15 for those items and services rendered which are not of a routine nature, will be reviewed on an individual bases by Human Resources to determine if an emergency existed. Upon approval of emergency requests, reimbursements will be granted.

Examples:

- Emergency medical expenses not covered by insurance for an illness that requires the services of a doctor, clinic, or hospital including auxiliary services (emergency transportation, lab tests, prescriptions and so forth) will be covered.
  - Emergency Vision Expenses-Repair of broken eyeglasses or replacement of lost contact lenses will be approved. (Not: routine eye exam, spare glasses, etc.).
  - Emergency Dental Expenses-Reimbursements for expenses associated with toothaches, broken teeth, impacted wisdom teeth, root canals, etc. will be covered. (Not: routine dental work done as a result of an exam done after June 1.)
- b. Reimbursements shall be for a minimum of \$50 except from May 15 to June 30 of the fiscal year when no minimum will be required for reimbursement. Reimbursement will be processed generally on a bi-weekly basis.
- c. Employees who are on a leave of absence, unless such leave is due to disability or suspension for disciplinary reasons, may not utilize their Flex Plan benefit during the absence (see Section 2.13 Leave of Absence).
- d. Employees may not utilize their flex plan benefits to pre-pay health or dental insurance premiums for periods after they retire or otherwise terminate from City employment.

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3. Content of Program - The Flexible Benefit Plan will consist of one mandatory selection and additional optional selections.

a. Mandatory Selection

Hospital, Medical and Life Benefits (Employee)

Each represented employee must select one of the medical plans offered by the City for health protection. Employee coverage includes a \$3,000 group term life policy. In addition, the City will provide an additional \$7,000 group term life insurance policy for each represented employee for a total of \$10,000. In the case of two City employees who are married to each other, one spouse may cover the other as a dependent.

b. Optional Selections

(1) Hospital/Medical Care Benefits (Dependents)

A represented employee may elect dependent coverage under the approved City sponsored health plans under one of two categories of coverage either "Employee plus one" or "employee plus family" coverage.

(2) Prepaid dental insurance benefits offered by the City for employee, employees plus one or employee plus family coverage.

(3) Reimbursable Programs

A represented employee may elect to receive reimbursement for the following expenditures with any balance left after the purchase of health insurance for the employee and/or the employee and dependents. The descriptions below are general in nature. Eligible programs shall be the same as those for the Mid-Management Group. Specific rules for allowable reimbursements will be based on applicable Internal Revenue Code (IRC) sections.

- Vision, Dental and Medical

Each represented employee may apply any remaining portion (after mandatory costs are paid) to out-of-pocket vision, dental and medical costs on a reimbursement basis. Employees remain free to be attended by a practitioner of their own choosing.

- Physical Exam

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Employees may elect to receive reimbursement for a voluntary physical exam from the physician of their choice.

- Supplemental Life Insurance

Each represented employee may purchase additional group life insurance (in accordance with IRC '79) in addition to the \$10,000 group term life insurance provided by the City under Section 3(a) above.

- Miscellaneous Categories

Employees may elect to apply any remaining portion (after mandatory costs are paid) towards deductible and out-of-pocket health plan costs.

- Dependent Care

Employee may receive reimbursement for dependent care expenses incurred in order to allow the employee to work for the City. Dependent care reimbursements from the Flexible Benefit Plan, alone or in combination with a Dependent Care FSA, cannot exceed \$5,000 per calendar year (refer to Section 2.09.B.4.{b})

- Supplemental Health Insurance

Employees may receive reimbursement for the costs of any City sponsored health insurance plans which supplement the existing City-offered health plans. Examples of such insurance may include cancer insurance or intensive care insurance.

- Group Vision Care

If available, employees may individually purchase group vision care offered by the City.

- Group Psychological Health Plan

If available, employees may individually purchase group psychological health plan offered by the City.



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## **B. Additional Benefits**

1. Long-Term Disability - The City will contribute the amount necessary to provide long-term disability protection for each employee represented by WCE in accordance with the following:

The plan will include a thirty (30) day waiting period, a maximum benefit of 60% of salary up to \$7,500/month. The plan will provide benefits until age 65 in the event a disability prevents the employee from performing his or her own occupation, and is subject to the provisions of existing applicable insurance and retirement plans.

2. Professional Enrichment - A special fund of \$18,000 will be established for use by 36 represented employees during the term of this agreement. An employee must receive approval from his/her department head and the City Manager's designee before funds may be claimed for reimbursement out of the special fund. Each represented employee will be entitled to \$500 per fiscal year for allowable reimbursements in accordance with State and Federal law. The maximum reimbursement per employee is \$500 per fiscal year. However, with approval of the department head, a represented member may consent to allocate up to \$500 of his/her entitlement to another represented member. If an employee allocates his/her fiscal year entitlement, or any portion thereof, to another employee, then said employee shall not be eligible to receive a third employee's unused entitlement. Further, if an employee receives all or part of a second employee's fiscal year entitlement, but does not expend all of the second employee's fiscal year entitlement or part of their own, then the unused portion shall not revert to the second employee or be further transferred to any other employee. Reimbursement to any individual employee in any fiscal year may not exceed \$1000. Funds paid to the employee from the Professional Enrichment special fund may be reportable as part of gross income to the employee.

Reimbursement for application fees for Professional License Exams shall be reimbursed with proof of obtaining the registration.

For the term of this MOU, an additional \$500 will be added to the fund for each new WCE-represented position authorized.

Professional enrichment allowable reimbursements shall include, but not be limited to:

- a. Conferences and Seminars
- b. Professionally related dues not otherwise specifically covered by this MOU.
- c. College courses

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- d. Books and supplies associated with course work or professional development
  - e. Travel to and from conferences and seminars, including air, rail, hotel-furnished transportation, hotel limo, shuttle, bus, taxi, mileage reimbursement and parking
  - f. Lodging at conferences and seminars
  - g. Meals at conferences and seminars (\$30 per day maximum)
  - h. Periodicals and subscriptions
  - i. Application fees for licensing examinations
  - j. Professional registration fees.
  - k. Hand-held scientific calculators, peripherals and computer software. NOTE: With regard to computer software, all purchases shall be work related, compatible with software used by the City and subject to the review and approval of the City Engineer and/or Public Works Director. Use of software other than during normal working hours shall not be considered time worked for overtime, unless authorized and directed by supervisor.

Such expenses must be related to the employees' professional or technical growth. Professional enrichment will also be administered in accordance with State and Federal Laws. All Professional Enrichment reimbursements will presume to be taxable, except as otherwise determined as follows. A joint City-WCE committee will be constituted no later than September 1, 2001, to discuss and report on the issue of taxability of professional enrichment reimbursements. The committee will be composed of two members from the City and two members chosen by the officers of WCE and will evaluate whether any of the above Professional Enrichment reimbursements can be classified as non-taxable. The committee will report its findings in a reasonable time, but no later than December 31, 2001. The City and WCE shall cooperate in furnishing information and gathering information for the committee's use and shall abide by the findings of the committee.

3. Flexible Spending Accounts for Health Care and Dependent Care

Two Flexible Spending Accounts (FSAs), under Sections 105, 125, 129 and 213 of the Internal Revenue Service Code, are offered to all represented employees. Employees may elect to budget by salary reduction, for certain health and welfare benefits and dependent care reimbursements on a pre-tax basis. If the City does

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not meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued.

a. Health and Welfare FSA

Before the start of the FSA plan year (January 1 to December 31), represented employees may reduce their salary up to \$2,500 to pay for eligible health and welfare expenses. Salary reductions will accrue bi-weekly during the plan year and reimbursements will be made on a schedule to be determined by the City. This is a reimbursement program. Participating employees must submit documentation of payment on the appropriate forms to receive reimbursement. Salary reductions not spent by the end of the plan year, by law, are forfeited to the City.

b. Dependent Care FSA

Before the start of the FSA plan Year (January 1, to December 31), represented employees may reduce their salary up to \$5,000 to pay for eligible dependent care. In no event can dependent care pre-tax dollars, whether reimbursed through an FSA, the City Flexible Benefit Plan or a combination of both, exceed \$5,000 per calendar year (refer to Section 2.09.A.3(b)(3)). Salary reductions will accrue bi-weekly during the plan year and reimbursements will be made on a schedule to be determined by the City. Dependent care must qualify under all pertinent IRS regulations. This is a reimbursement program. Participating employees must submit documentation of payment and other information related to dependent care arrangements to receive reimbursement. Salary reductions not spent by the end of the plan year, by law, are forfeited to the City.

c. FSA Administration

The City reserves the right to contract with a Third Party Administrator (TPA) for administration of both FSA's. The City will pay the start-up costs associated with third party administration. Participating employees will pay monthly, per employee, or per transaction administration fees, if any.

4. Health and Dental Payroll Deductions Treated as Pre-tax

Under Sections 125, 105, and 213 of the Internal Revenue Service Code, the City will treat all payroll deductions for health and dental care on a pre-tax basis, unless an affected employee requests such deductions be taxed. If the City does not meet IRS regulations or if the IRS regulations change for any reason, this benefit may be discontinued.

5. Medical Premium Retirement Benefit Plan

The City will offer a medical premium retirement benefit plan, under Section 457(f) of the Internal Revenue Service Code, to all represented employees

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through the JPEBA, Joint Powers Employee Benefit Authority (or an equivalent plan).

This program will provide employees the option of making unlimited pre-tax contributions from their wages to pre-fund post-retirement health insurance premium costs for themselves and their dependents. Since IRS Section 457(f) requires restrictions on the program that can result in forfeiture of the contributions to the City for specified reasons, employees are advised to carefully review the information that will be provided on the program prior to deciding whether or when to participate.

The City will pay the start-up costs associated with third party administration. Participating employees will pay the participant costs. If the City does not meet IRS regulations or if the IRS regulations change for any reason, this benefit will be discontinued.

6. Supplemental Life Insurance

WCE represented employees may purchase supplemental life insurance for themselves or their eligible dependents.

7. PERS Health Care

In the third year of this contract, prior to the renewal of the City health insurance contracts, the City will meet and confer regarding the implementation of PERS health care.

## **2.10 RETIREMENT**

WCE members have the following PERS retirement benefits:

- A. 2% at 55; If 3% at 60 PERS Retirement option (AB616) is available on or before January 1, 2003, it will be implemented January 2003.
- B. City paid members contributions (7%). City paid members contributions will become 8% effective January 2003 if 3% at 60 is contracted for.
- C. Single highest year final compensation;
- D. Sick Leave Credit;
- E. 1959 Survivor benefit (Fourth level); and
- F. Military Credit.

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- G. Employer Paid Member Contributions Converted to Payrate (E.P.M.C.) will be provided via resolution the pay period including January 1, 2002.
  - H. PERS Sections 21624, 21626, and 21628 Post-Retirement Survivor Allowance will be implemented effective July 2002.

All refunds of employee contributions or additional costs of employee retirement contributions mandated by the courts and/or requested by PERS because of court decisions during the life of the contract will be reimbursed to or paid by the employee.

## **2.11 HOLIDAYS**

- A. Fixed Holidays - The following days of each year are recognized as holidays:
    - 1. January 1st, New Years Day
    - 2. The third Monday in January, known as Martin Luther King Birthday
    - 3. March 31, known as Cesar Chavez Day
    - 4. The last Monday in May, known as Memorial Day
    - 5. July 4th, known as Independence Day
    - 6. The first Monday in September, known as Labor Day
    - 7. The third Thursday in November, known as Thanksgiving Day
    - 8. The Friday after Thanksgiving Day
    - 9. December 25th, known as Christmas Day
  - B. Holiday Pay - Employees shall receive eight hours pay at their regular hourly rate for each fixed holiday payable during the pay period in which the regular holiday occurs. If an employee normally works more than eight hours per day, they must either make up the additional hours of work missed due to the holiday within the same FLSA work week or submit a leave slip of vacation, holiday or compensatory time for the difference between the eight hour holiday and the hours they are normally scheduled to work.
  - C. For employees who work the traditional Monday through Friday work week, overtime will be paid if the employee is directed and authorized by the Department Head or his/her designee to work on the day City offices are closed to celebrate a fixed holiday.
- If a fixed holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. If a fixed holiday falls on a Sunday, the following Monday shall be observed as the holiday.
- E. Floating Holidays:
    - 1. Amount - Effective the first pay period in July of each fiscal year of this Agreement, employees shall be credited with thirty-two (32) hours floating holiday time, eight hours each for: Lincoln's Birthday, Washington's Birthday, Admission Day and Veteran's Day. Employees may take floating holiday time at their discretion with the approval of their department head or designee.

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2. Floating Holiday Use - If an employee uses floating holiday time before the holiday passes and subsequently leaves City service, they will be charged for such time. If employees do not use their floating holiday time before June 30 of the fiscal year, they will lose such time. The smallest unit of time chargeable to floating holiday time is one half hour.

## **2.12 VACATION AND SICK LEAVE**

### **A. Definition - For the purpose of this section, the following definitions shall apply:**

1. "Continuous Service" means City service uninterrupted by separation.
2. "Intermittent service" means City service interrupted by separation.
3. "Time worked" includes all paid time.
4. "Active service" includes time worked, leave of absence without pay not to exceed 14 calendar days, and leave of absence not to exceed one (1) year for which Workers Compensation is paid.

### **B. Vacation**

1. Vacation Accrual - Continuous service: Each employee paid biweekly shall be entitled to vacation with pay. The following provisions shall apply:
  - a. Employees will accrue 10 working days during the first year of service. This benefit will be accumulated at the rate of 3.07 working hours for each full biweekly pay period of service performed.
  - b. Employees will accrue and be eligible to receive 10 working days annually (cumulative to a total leave balance of 30 working days) during the second through fourth year of service. This benefit will be accumulated at the rate of 3.07 working hours for each full biweekly pay period of service performed.
  - c. Employees will accrue and be eligible to receive 15 working days annually (cumulative to a total leave balance of 45 working days) during the fifth through fifteenth year of service. The benefits will be accumulated at the rate of 4.60 working hours for each full biweekly pay period of service performed.
  - d. Employees will accrue and be eligible to receive 20 working days annually (cumulative to a total leave balance of 60 working days) during the sixteenth and succeeding years of service. This benefit will be

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accumulated at the rate of 6.14 working hours for each full biweekly pay period of service performed.

Maximum Vacation Accrual - At no time may an employee have more than three-years of vacation leave accumulated. No credits shall be accrued above this limit and any time in excess of the three-year limitation will be lost.

- e. Vacation accrual rate changes will become effective at the beginning of the pay period closest to the actual date of change.
- 2. Each part-time employee paid at a biweekly rate shall be entitled to vacation with pay. The number of working days of such vacation shall be computed on the basis set forth in subsection b., c., or d. shall be in the proportion that such part-time employment bears to full-time employment.
- 3. Employees separated from the City service, whether voluntarily or involuntarily, shall be granted all of the unused vacation to which they are entitled based upon continuous service computed on the basis set forth in subsections (b), (c) and (d). Payment shall be made hour for hour with any portion of an hour being considered a full hour.
- 4. Vacation Use - Vacation leave balances shall be reduced for actual time not worked to the nearest quarter hour for reasons allowable under this section. Absence may not be charged to vacation not already accumulated.
- 5. Effective July 1, 2002, represented employees with a minimum of 10 years full-time employment have the option of selling back 40 hours of accumulated vacation leave per fiscal year. Vacation leave must be sold in 40 hour increments.

### **C. Sick Leave**

- 1. Accumulated paid sick leave credit is to be used for the sole purpose of protecting the employee's wages in the event absence is made necessary because of disability due to injury or illness of the employee or members of their immediate family or their domestic partner (as defined in the health plans).
- 2. Sick Leave Accrual - Computation of sick leave: Sick leave with pay is cumulative at the rate of 3.68 working hours for each biweekly pay period of service, 96 hours annually, beginning at the time of full-time probationary employment. A person who has held a position with temporary or interim status and is appointed to a position with probationary status, without a break in service, may have such time credited to sick leave upon the recommendation of the department head and Director of Personnel and with the approval of the City Manager.

3. Maximum Sick Leave Accumulation - Unused sick leave may be accumulated in an unlimited amount.
4. Sick Leave Use - Sick leave balances shall be reduced for actual time not worked to the nearest quarter hour for reasons allowable under this section. Absence for illness may not be charged to sick leave not already accumulated.
5. Sick Leave Verification - The City may, in its discretion, require a doctor's certificate and/or a personal sworn affidavit verifying the nature, severity and cause of the disabling injury or illness of the employee in order to determine eligibility for sick leave. If an employee is to be required to furnish a doctor's certificate, the employee shall be notified by their supervisor that a doctor's certificate shall be required when the employee notifies the City that they will be absent by reason of illness or disability.
6. Bereavement Leave - When an employee with permanent status is compelled to be absent from work because of the death of an immediate family member defined by the IRS as husband, wife, child, stepchild, brother, stepbrother, sister, stepsister, parent, step-parent, or any other person living in the same household as the employee or an immediate family member of the employee's spouse; and after such employee makes written request and receives written approval from their department head, such employee may be allowed to use their accumulated sick leave, vacation, compensatory time or floating holiday time for up to five (5) days, plus three (3) travel days.
7. Sick Leave Reimbursement
  - a. WCE members using 32 hours of sick leave or less during the fiscal year shall have the option of converting twenty-five percent (25%) of their remaining yearly sick leave pay.
  - b. Pay shall be computed based on the following schedule and all computations shall be rounded to the nearest whole hour:

<b>REMAINING YEARLY SICK LEAVE</b>	<b>PAY OPTION (25%)</b>
12 days	3 days
11 days	2 days, 6 hrs.
10 days	2 days, 4 hrs.
9 days	2 days, 2 hrs.
8 days	2 days
7 days or less	0



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- c. If the pay option is selected, the paid sick leave hours shall be subtracted from the employee's accumulated yearly sick leave balance. The remaining sick leave hours shall be carried over and accumulated. (Example: Employee uses 4 days sick leave. They then elect to receive pay for 25% of remaining days, or 2 days. The 2 days are subtracted from their remaining yearly sick leave and the other 6 days are added to the employee's accumulated sick leave balance.)
  - d. Payment will be made during the month of July of each year. Pay will be computed based on the employee's salary step on June 15.
  - e. Payment will be made only to members on the payroll twelve consecutive months prior to the payoff calculation. Permanent employees who retire during the fiscal year will be compensated under this plan based upon their formal retirement date. With the exception of layoff, prorated payments will not be made to employees who terminate during the fiscal year. However, in the event of the death of an individual while employed by the City, 50% of the employee's unused, accumulated sick leave will be paid to the appropriate beneficiary.

## **2.13 LEAVE OF ABSENCE**

Employees who are mentally or physically incapacitated to perform their duties, or who desire to engage in a course of study that will, in the judgment of the City, increase their usefulness on their return to the classified service or who, for any reason considered to be in the best interest of the City government by the appointing authority and the Director of Personnel, and with the approval of the City Manager, be granted leave of absence without pay or benefits for a period not to exceed one year. Employees asking for leave of absence without pay shall submit their request in writing stating the reasons why, in their opinion, the request should be granted, the date when they desire the leave to begin, and the probable date of their return. For each leave without pay, the Director of Personnel shall determine whether the employee granted such leave shall be entitled to their former position on their return from such leave or whether their name shall be placed on the reinstatement list for the class as provided for in the Civil Service rules. If a request for leave is denied, a copy of such request and the reasons for denial shall be sent to the Civil Service Commission.

An employee who is granted an unpaid leave of absence for more than one month for any reason, including a leave for disciplinary purposes, shall pay the cost of health and life insurance premiums for the entire period of the leave of absence, provided, however, that this provision shall not apply if the leave of absence is a result of the employee being ill or disabled.

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## **2.14 MILITARY LEAVE**

Military leave shall be granted in accordance with the provisions of applicable State and Federal laws (California Military and Veteran's Code).

## **2.15 JURY DUTY**

Permanent and probationary employees who are called to serve on jury duty for any county, state or federal court within the San Diego area shall be entitled to paid leave under the following circumstances:

- A. They must present to their supervisor the court order to appear for jury duty at least three weeks prior to their date to report.
- B. All fees received by the employee for jury duty for days when scheduled for work, excluding mileage, shall be paid over to the City.
- C. The employee must submit a daily court authorized, stamped time card accounting for all hours of required service ordered by the court.
- D. If jury service and travel time from court to work is less than five hours in a work day, the employee is expected to return to work unless a justification is provided and approved or pre-authorized leave is approved.
- E. Employees who are required to serve jury duty on their scheduled days off will not be compensated for this time and may keep any fees paid by the court.
- F. If the employee is not required to report for jury duty on any particular day(s) they are then expected to be at work as per their normal schedule.
- G. It is the employee's responsibility to inform his or her supervisor on a daily basis if they are required to report for jury duty the following day. This may include calling the supervisor after or before normal working hours.
- H. Absence due to jury duty will be submitted on the City leave form.

### **2.15.1 Court Leave**

Court leave is paid leave granted by the City to enable an employee to fulfill his/her duty as a citizen to serve as a witness in a court action to which the employee is not a party, before a Federal, Superior, or Municipal Court located within San Diego County.

Court leave shall be limited to:

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- A. Required attendance before Federal, Superior, Municipal, Justice Courts located within San Diego County.
  - B. Time in attendance at court together with reasonable travel time between court and work if attendance is for less than a full day and the employee can reasonably be expected to return to work.
  - C. Court leave shall not be granted when the employee is paid an expert witness fee.
  - D. The employee must submit to the City any payment received for court leave except travel and subsistence pay for such duty.
  - E. Court leave shall not be granted to employees who are not litigants in the civil case nor related to litigants in the civil case or defendants in a criminal case.
  - F. Employees shall provide their supervisor with a copy of the legal subpoena and provide other documentary evidence of service.

## **2.16 CAREER ADVANCEMENT**

- A. Promotion
  - 1. The Assistant Engineer I classification will be considered as career advancement to the Assistant Engineer II level. Employees will not be required to undergo a promotional exam but will qualify for certification upon (1) fulfillment of a minimum of one year as an Assistant Engineer I and upon forwarding of a positive recommendation by the relevant appointing authority or (2) becoming registered as a professional engineer by the State of California. Permanent employees who advance from the Assistant Engineer I classification under #(1) above to the Assistant Engineer II level shall not be subjected to an additional probationary period. Employees who advance from the Assistant Engineer I level as a result of #(2) above, shall serve at least a six month probationary period at the Assistant Engineer II level and at least a combined total of one year as an Assistant Engineer I and/or Assistant Engineer II.
  - 2. Employees classified as an Assistant Engineer II will be allowed to use the working titles Assistant Civil Engineer or Assistant Traffic Engineer upon (a) becoming registered as a Professional Civil Engineer or Professional Traffic Engineer by the State of California; and (b) upon completion of the probationary period specified above and upon forwarding of a positive recommendation by the relevant appointing authority.
  - 3. The career advancement provisions described in numbers 1 and 2 above will also be applicable for Assistant Surveyors I/II

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## **2.17 LABOR-MANAGEMENT COOPERATION**

During the term of this Agreement, the City will explore ongoing relationship with this unit beyond the traditional negotiation process. The objective is to jointly develop and implement programs designed to improve City operations and enhance employee satisfaction.

## **2.18 ACTING/OUT-OF-CLASS/SPECIAL ASSIGNMENT PAY**

### **A. Acting Pay**

In the absence of an eligible list, upon the recommendation of the Department Director and the Human Resource Director, and with the approval of the City Manager (or his designee), a unit member may be appointed on an “acting” basis to a vacant position if he/she meets the desired qualifications. He/she shall receive a minimum compensation equal to five percent (5%) over their current salary, or step A of the new salary range, whichever is greater. The effective date of such increase will be the first working day of the acting appointment. Employees so appointed will maintain their status in their regular position and receive earned salary increases if they would otherwise be eligible.

### **B. Out-Of-Class Pay**

When an employee is assigned to perform the duties of a higher paid position for a period of ten consecutive work days or eighty consecutive working hours, such employee shall be compensated with a 5% pay increase above their current salary rate effective the first day of the out-of-class assignment. Requests for out-of-class pay shall be submitted by the Department Director on a “Request for Additional Pay” form as percentage amounts only.

### **C. Special Assignment Pay**

WCE represented employees may be eligible for a maximum of 5% above their base wage when assigned by the City Manager to a special project.

## **2.19 DRIVING ELIGIBILITY**

Whenever an employee drives a vehicle for City business he or she shall have a valid California Drivers License. In order to ascertain the validity of the employee's licenses, employees must present their drivers license to their supervisor upon request. The City reserves the right to check at any time with the Department of Motor Vehicles to determine if the license is valid. If an employee's drivers license is revoked, suspended or otherwise made invalid, the employee must inform his or her supervisor. Failure to notify the supervisor may result in immediate disciplinary action.

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An employee who does not possess a valid California Drivers License will be considered for a non-driving position, if one is available in the employee's classification. The non-driving assignment will continue for a maximum of six months if there is a reasonable expectation the employee will have a valid California Drivers License at the expiration of that time. Extensions to the six-month limit will be considered on a case-by-case basis, however, in no case shall an employee receive more than one non-driving assignment in any three-year period. When no non-driving assignment is available, employees must request a leave of absence without pay for six months or such time as their license is once again valid, whichever is shorter.

In order to assure that non-driving assignments are provided on a fair and equitable basis, the following procedures shall be observed:

- A. Each department will determine whether or not it has any non-driving assignments that can be filled by employees who would otherwise have driving assignments.
- B. Non-driving assignments will be given on a first come, first served basis. For example, if two employees in a department have non-valid drivers licenses and there is only one non-driving assignment, the first employee who comes forward will be given the non-driving assignment. The other employee may apply for a leave of absence as described above.

## **2.20 SUBSTANCE/ALCOHOL ABUSE PROGRAM**

Represented employees are subject to the Substance Abuse Policy.

## **3.01 PROHIBITED PRACTICES**

- A. WCE pledges it shall not cause, condone or counsel its unit members or any of them to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede or otherwise impair the normal functions and procedures of the City.
- B. Should any unit employees during the term of this Agreement breach the obligations of Section A above, the City Manager or his designee shall immediately notify WCE that an alleged prohibited action is in progress.
- C. WCE shall forthwith, and in any event, within eight working hours disavow said strike or other alleged prohibited action, shall advise such members orally and in writing to immediately return to work and/or cease the prohibited activity and provide the City Manager with a copy of its advisement or, alternatively, accept the responsibility for the strike or other prohibited activity.

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- D. If WCE disavows the prohibited activity and takes all positive actions hereunder in good faith, the City shall not hold WCE financially or otherwise responsible. The City may impose such penalties or sanctions as the City may appropriately assess against the participants.
  - E. Should WCE during the term of this Agreement breach its obligations or any of them under this section, the City shall pursue all legal and administrative remedies available to the City that in its discretion it may elect to pursue.

### **3.02 GRIEVANCE PROCEDURE**

This grievance procedure shall be in effect during the full term of this Agreement.

Section 1. PURPOSE. The purposes and objectives of the Grievance Procedure are to:

- 1. Resolve disputes arising from the interpretation, application or enforcement of specific terms of this Agreement.
- 2. Encourage the settlement of disagreements informally at the employee-supervisor level and provide an orderly procedure to handle grievances through the several supervisory levels where necessary.
- 3. Resolve grievances as quickly as possible and correct, if possible, the causes of grievances thereby reducing the number of grievances and future similar disputes.

Section 2. DEFINITIONS. For the purpose of this grievance procedure the following definitions shall apply:

- 1. Manager: The City Manager or his/her authorized representative.
- 2. Day: A calendar day, excluding Saturdays, Sundays and hard holidays as described by this Agreement.
- 3. Department head or head of a department: The chief executive officer of a department.
- 4. Director of Personnel: The Director of Personnel or his/her authorized representative.
- 5. Employee: Any officer or regular (not temporary) employee of the City, except an elected official.
- 6. Employee representative: An individual who speaks on behalf of the employee.
- 7. Grievance: A complaint of an employee or group of employees arising out of the application or interpretation of a specific clause in this Agreement.

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8. Immediate supervisor: The individual who assigns, reviews, or directs the work of an employee.
  9. Superior: The individual to whom an immediate supervisor reports.

### Section 3. REVIEWABLE AND NON-REVIEWABLE GRIEVANCES.

1. To be reviewable under this procedure a grievance must:
  - a. Concern matters or incidents that have occurred in alleged violation of a specific clause in this Agreement; and
  - b. Specify the relief sought, which relief must be within the power of the City to grant in whole or in part.
2. A grievance is not reviewable under this procedure if it is a matter which:
  - a. Is subject to those reserved City Management Rights as stipulated under Section 4 of the Employer-Employee Relations Policy for the City of Chula Vista or under management rights as specified in this Agreement.
  - b. Is reviewable under some other administrative procedure and/or rules of the Civil Service Commission such as:
    - (1) Applications for changes in title, job classification or salary.
    - (2) Appeals from formal disciplinary proceeding.
    - (3) Appeals arising out of Civil Service examinations.
    - (4) Appeals from work performance evaluations.
    - (5) Appeals that have Affirmative Action or civil rights remedy.
  - c. General complaints not directly related to specific clauses of this Agreement.
  - d. Would require the modification of a policy established by the City Council or by law.
  - e. Relates to any City group insurance or retirement programs.

### Section 4. GENERAL PROVISION OF THE GRIEVANCE PROCEDURE.

1. Grievances may be initiated only by the employee or employees concerned and may not be pursued without his/her or their consent.
2. Procedure for Presentation: In presenting his/her grievance, the employee shall follow the sequence and the procedure outlined in Section 5.

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3. Prompt Presentation. The employee shall discuss his/her grievance with his/her immediate supervisor within ten (10) working days after the act or omission of management causing the grievance, or within ten (10) working days of when the employee, with the exercise of reasonable diligence, should have discovered the act or omission being grieved.
  4. Prescribed Form. The written grievance shall be submitted on a form prescribed by the Director of Personnel for this purpose.
  5. Statement of Grievance. The grievance shall contain a statement of:
    - a. The specific situation, act or acts complained of as an Agreement violation;
    - b. The inequity or damage suffered by the employee; and
    - c. The relief sought.
  6. Employee Representative. The employee may choose someone to represent his/her at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time, unless he/she so desires.
  7. Handled During Working Hours. Whenever possible, grievances will be handled during the regularly scheduled working hours of the parties involved.
  8. Extension of Time. The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
  9. Consolidation of Grievances. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances shall, whenever possible, be handled as a single grievance.
  10. Settlement. Any complaint shall be considered settled without prejudice at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed period of time.
  11. Reprisal. The grievance procedure is intended to assure a grieving employee the right to present his/her grievance without fear of disciplinary action or reprisal by his/her supervisor, superior or department head, provided he/she observes the provisions of this grievance procedure.
  12. Back pay. The resolution of a grievance shall not include provisions for back pay retroactive further than twenty (20) working days prior to the date the grievance is filed. However, if with the exercise of reasonable diligence the act or omission being grieved was not discovered within 10 working days of its occurrence, and the grievance is



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subsequently timely filed pursuant to Section IV (3), then the resolution of the grievance may include provision for back pay for a maximum period of one year from the date the grievance was filed.

Section 5. GRIEVANCE PROCEDURE STEPS. The following procedure shall be followed by an employee submitting a grievance pursuant to policy:

Step 1 Discussion with Supervisor. The employee shall discuss his/her grievance with his/her immediate supervisor informally. Within three (3) working days, the supervisor shall give his/her decision to the employee orally.

Step 2 Written Grievance to Superior. If the employee and supervisor cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within the three (3) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her supervisor who shall endorse his/her comments thereon and present it to his/her superior within seven (7) working days. The superior shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.

Step 3 Grievance to Department Head. If the employee and superior cannot reach an agreement as to a solution of the grievance or the employee has not received a written decision within the seven (7) working days' limit, the employee may within seven (7) working days present his/her grievance in writing to his/her department head. The department head shall hear the grievance and give his/her written decision to the employee within seven (7) working days after receiving the grievance.

Step 4 Grievance to Director and Manager. If the grievance is not settled at the department head level, it may be submitted by WCE's Representative within twenty (20) working days to the Personnel Director, who shall investigate and report his/her findings and recommendations to the city Manager within ten (10) working days. The City Manager shall provide his/her answer within ten (10) additional working days. The times indicated may be extended by mutual agreement. Any Employee grievance will be filed with WCE's Representative at Step 4.

Following the submission of the City Manager's answer, and before going to Section 6, Advisory Arbitration, matters which are unresolved shall be discussed at a meeting between the parties during which all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation.

Section 6. ADVISORY ARBITRATION. Any dispute or grievance which has not been resolved by the Grievance Procedure may be submitted to advisory arbitration by WCE's Representative or the City without the consent of the other party providing it is submitted within

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ten (10) working days, following its termination in the Grievance Procedure. The following advisory arbitration procedures shall be followed:

1. The requesting party will notify the other party in writing of the matter to be arbitrated and the contract provision(s) allegedly violated. Within five (5) working days of the receipt of this notice, the parties may agree upon an arbitrator, or panel of three arbitrators, trained in conducting grievance hearings.

If agreement on an arbitrator cannot be reached, the State Department of Industrial Relations shall be requested by either or both parties to provide a list of five arbitrators. Both the City and WCE shall have the right to strike two names from the list. The party requesting the arbitration shall strike the first name; the other party shall then strike one name. The process will be repeated and the remaining person shall be the arbitrator.

2. The arbitrator shall hear the case within twenty (20) working days after the arbitrator has been selected. The arbitrator may make a written report of their findings to WCE and the City within fifteen (15) working days after the hearing is concluded. The arbitrator shall make rules of procedure. The decision of the arbitrator shall be advisory to the City Manager who shall render a final decision within ten (10) working days.

The arbitrator shall have no authority to amend, alter or modify this Agreement or its terms and shall limit recommendations solely to the interpretation and application of this Agreement. The above time limits of this provision may be extended by mutual agreement.

3. Each grievance or dispute will be submitted to a separately convened arbitration proceeding except when the City and WCE mutually agree to have more than one grievance or dispute submitted to the same arbitrator.
4. The City and WCE shall share the expense of arbitrators and witnesses and shall share equally any other expenses, including those of a stenographer, if required by either party. If either party elects not to follow the advisory decision rendered by the arbitrator, that party shall pay the entire cost of the arbitration process, including the expense of the arbitrator, witnesses and/or stenographer.

### **3.03 TERM**

- A. This Memorandum of Understanding shall remain in full force and effect from July 1, 2001, up to and including 12:00 midnight of June 30, 2005.
- B. If at any time during the term of this Memorandum of Understanding, through causes beyond the control of the City, the City does not receive a sufficient amount of anticipated budgeted revenues or is required to make substantial unanticipated

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expenditures, then, in such event, the City may, with mutual agreement of WCE, renegotiate this Memorandum of Understanding and meet and confer on employment benefits. This section, however, in no way affects the existing right of the City to layoff employees.

### **3.04 FULL UNDERSTANDING, MODIFICATION, WAIVER**

- A. This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein. Any other prior or existing understanding or Agreements by the parties, whether formal or informal, regarding such matters are hereby superseded or terminated in their entirety.
- B. Except as specifically provided herein, it is understood that WCE voluntarily and unqualifiedly waives its right to meet and confer with respect to any matter covered herein.
- C. No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any way be binding upon the parties hereto unless made and executed in writing by the parties hereto and, if required, approved and implemented by the City Council.
- D. The waiver of any breach, term, or condition of this Agreement by either party shall constitute a precedent in the future enforcement of all its terms and provisions.
- E. Except as specifically provided in this Agreement, it is understood that any benefits and/or working conditions within the scope of representation published in the Civil Service Rules, Salary Ordinance and other resolutions and ordinances that affect benefits and/or working conditions presently in effect and not modified by this Agreement, shall remain unchanged unless and until the City and WCE meet and confer in good faith pursuant to the provisions of Section 3504.5 of the Government Code and the City Employer-Employee Relations Policy concerning any such proposed changes.
- F. The provisions of paragraph E, above, shall not obligate either party to meet and confer on any issue for the term of this Agreement except as provided herein.

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### 3.05 SAVINGS CLAUSE

If any article or section of this Agreement shall be held invalid by operation of law or by any tribunal or competent jurisdiction or if compliance with or enforcement of any article or section shall be restrained by such tribunal, the remainder of this Agreement shall not be affected thereby. The parties shall if possible meet and confer or meet and consult as the case may be for the purpose of arriving at a mutually satisfactory replacement for such article or section.

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Candy Emerson  
Chief Negotiator  
City of Chula Vista

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Majed A. Al-Ghafry, P.E.,  
President of Western Council of  
Engineers

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Elizabeth Chopp, P.E. Negotiator

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Peter H. Ehlert, PLS Negotiator

Western Council of Engineers